HIGH COURT OF CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI JAGDISH BHALLA, Ag. CJ

W.P. (C) No. 4779 of 2007

PETITIONER Smt. Shakila Bano, W/o Abdul Rashid age about 33 years, R/o. word No. 17, Near Badi Maszid Manendragarh, Through – Power Attorney Abdul Aziz S/o Abdul Khuddus age about 47 years village – Kachod, Tah. Manendragarh, Distt. Korea (C.G.)

VERSUS

RESPONDENTS

1. Regional Transport Authority D.K.S. Bhawan Raipur Chhattisgarh
2. Secretary Regional Transport Authority
3. Anil Duggal S/o Shri B.P. Duggal, Kharsia Road, Ambikapur, Distt. Sarguja (C.G.)

Writ Petition under Article 227 of the Constitution of India.

Present: Shri B.K. Chakravarthy, counsel for the petitioner.
Shri U.N.S. Deo, Govt. Advocate for the State.

ORAL ORDER
(Passed on 10th August, 2007)

Learned counsel for the petitioner contended that there are two different routes overlapping each other, therefore, grant of permit of both routes should have been considered on the same day. It has been further submitted that the petitioner's application for grant of permit is still pending.

Although the petitioner has challenged the grant of stage carriage permit to opposite party No. 3 on the ground as indicated herein above, i.e. overlapping of the routes, the route is different for which the petitioner is not an applicant. The grant of stage carriage permit can be issued under Section 80 of the Motor Vehicle Act. However, there is no provision that if two routes are overlapping grant of stage carriage permit of both routes to be considered mandatorily together.

"**80. Procedure in applying for and granting permits** :- (1) An application for a permit of any kind may be made at any time.

(2) A [Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66] Subs. by Act 54 of 1994, sec. 25, for "Regional Transport Authority" (w.e.f. 14-11-1994) shall not ordinarily refuse

33

to grant an application for permit of any kind made at any time under this Act:

Provided that the [Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66] may summarily refuse the application if the grant of any permit in accordance with the application would have the effect of increasing the number of stage carriages as fixed and specified in a notification in the Official Gazette under clause (a) of sub-section (3) of section 71 or of contract carriages as fixed and specified in a notification in the Official Gazette under clause (a) of sub-section (3) of section 74:

Provided further that where a [Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66] refuses an application for the grant of a permit of any kind under this Act, it shall give to the applicant in writing its reasons for the refusal of the same and an opportunity of being heard in the matter.

(3) An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new area or by altering the route or routes or area covered by it, or in the case of a state carriage permit by increasing the number of trips above the specified maximum or by the variation, extension or curtailment of the route or routes or the area specified in the permit shall be treated as an application for the grant of a new permit:

Provided that it shall not be necessary so to treat an application made by the holder of state carriage permit who provides the only service on any route to increase the frequency of the service so provided without any increase in the number of vehicles:

Provided further that, -

(i) in the case of variation, the termini shall not be altered and the distance covered by the variation shall not exceed twenty-four kilometers;

(ii) in the case of extension, the distance covered by extension shall not exceed twenty-four kilometers from the termini, and any such variation or extension within such limits shall be made only after the transport authority is satisfied that such variation will serve the convenience of the public and that it is not expedient to grant a separate permit in respect of the original route as so varied or extended or any part thereof.

34

(4) A [Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66] may, before such date as may be specified by it in this behalf, replace any permit granted by it before the said date by a fresh permit conforming to the provisions of section 72 or section 74 or section 76 or section 79, as the case may be, and the fresh permit shall be valid for the same route or routes or the same area for which the replaced permit was valid:

Provided that no condition other than a condition which was already attached to the replaced permit or which could have been attached thereto under the law in force when that permit was granted shall be attached to the fresh permit except with the consent in writing of the holder of the permit.

(5) Notwithstanding anything contained in section 81, a permit issued under the provisions of sub-section (4) shall be effective without renewal for the remainder of the period during which the replaced permit would have been so effective."

Interest of justice would suffice if the petitioner makes an application to expedite consideration of his application for grant of stage carriage permit. As far as grant of permit to opposite party No. 3 in different route is concerned, by no stretch of imagination it can be said that the petitioner is aggrieved party. As far as overlapping is concerned, opposite party No.3 will not pick up and drop the passengers in the said area. In light of the above, no interfere is warranted. Accordingly, the writ petition is dismissed.

Sd/-
Jagdish Bhalla
Ag. Chief Justice

Kamde